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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,878	01/14/2004	Jeffrey S. Meteyer	D/A3359	5192
7590	03/31/2008		EXAMINER	
Ortiz & Lopez, PLLC P.O. Box 4484 Albuquerque, NM 87196-4484			KEATON, SHERROD L	
			ART UNIT	PAPER NUMBER
			2174	
			MAIL DATE	DELIVERY MODE
			03/31/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/757,878	METEYER, JEFFREY S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sherrod Keaton	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 December 2007.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

This action is in response to the filing of 12-21-2007. Claims 1-20 are pending and have been considered below:

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4-7, 10, 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Wong et al ("Wong" US 6931387 B1).

**Claims 1 and 10:** Wong discloses a method and system comprising:  
accessing an electronic portal that collects and provides ergonomic tool data to a user of said portal, and  
compiling ergonomic data based on physical input provided by user to said electronic portal in order to generate ergonomic tool data to user based on

physical input

Associating a search engine with said electronic portal, wherein said search engine is accessible by said user through said electronic portal to automatically identify tool data that are potentially ergonomically appropriate for said user based on said ergonomic data compiled based on physical input provided by user. (Abstract; Column 4, Lines 60-Column 5, Line 7; Column 6, Lines 57-Column 7, Line 45). Wong allows user physically input information this information is collected and compared and product “tool” recommendations are made available to user based on input.

**Claims 4 and 13:** Wong discloses a method and system as in Claim 1 above and further discloses generating specific ergonomic data in response to compiling ergonomic data based on physical input provided by user to electronic portal in order to generate ergonomic tool data to user based on physical input (Abstract; Column 4, Lines 60-Column 5, Line 7; Column 6, Lines 57-Column 7, Line 45). Wong allows user physically input information this information is collected and compared and product “tool” recommendations are made available to user based on input.

**Claims 6 and 15:** Wong discloses generating specific ergonomic data in response to compiling ergonomic data based on physical input provided by user to electronic portal in order to generate ergonomic tool data to user based on physical input as in Claim 4

and 13 above and further discloses analyzing and comparing said specific ergonomic data to data maintained within a database to thereby provide particular tool data matching said specific ergonomic data associated with said user allowing said user to select an appropriate tool. (abstract; Column 11, Lines 28-45).

**Claims 8 and 18:** Wong discloses generating a plurality of risk factors for said user based on an analysis of ergonomic data compiled based on physical input provided by said user to said electronic portal in order to generate ergonomic tool data to said user based on said physical input as in Claims 7 and 16 above and further discloses

- a.) a high risk factor, wherein ergonomic injury is likely to said user
- b.) a medium risk factor, wherein on a short term basis, a substantial risk to said user is unlikely to occur
- c.) a limited risk factor, wherein said user faces a highly unlikely risk of injury (Column 2, Lines 60-67),
- d.) the plurality of risk factors being graphically represented for user on a display screen as a graphical representation of the human body.

(Column 11, Lines 12-31; Column 15, Line 58-Column 16, Line 2)

**Claim 9 and 19:** Wong discloses a method and system as in Claims 1 and 10 above wherein said electronic portal is a web portal allowing said user of said web portal to funnel said ergonomic tool data to an online marketplace offering said user a plurality of tool options based on said ergonomic tool data (Column 15, Lines 58-63; Column 7, Lines 37-40). Here analysis can be complied and compared over the internet and analysis can be returned in recommendations of products “tools” based on information.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al (“Wong” US 6931387 B1).

**Claims 7 and 16:** Wong discloses a method and system as in Claim 1 above and further discloses generating a plurality of risk factors for said user based on a cross reference analysis of ergonomic data compiled based on physical input provided by said

user to said electronic portal in order to generate ergonomic tool data to said user based on said physical input (Column 11, Lines 13-31). However does not explicitly disclose a known physical profile of said user but it would have been an obvious technique of improving the system and would have been within the ordinary capabilities of one skilled in the art to include physical profile alongside the physical task profile of Wong (Column 9, Lines 39-50) because the physical profile would be inter-related with the effect of the task performed by the specific user.

5. Claims 2, 3, 5, 11, 12, 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al ("Wong" US 6931387 B1) in view of Burdea et al (US 5429140).

**Claims 2 and 11:** Wong discloses a method and system as in Claims 1 and 10 above but does not explicitly disclose

- a.) generating an interactive graphic for displayed in three spatial dimensions for display on a display screen for said user.
- b.) prompting said user to interact with said interactive graphic displayed in three spatial dimensions utilizing a user input device.
- c.) collecting ergonomic data from said user based on input provided by user through said user input device in association with said interactive graphic displayed in three spatial dimensions displayed on said display screen for said user

However Burdea discloses a virtual reality interactive system that utilizes an input to collect ergonomic data (Abstract; Column 4, Lines 4-42). Therefore it would have been obvious to one having ordinary skills in the time of the art to add the interactive graphic to Wong. One would have been motivated to add the interactive graphic because it adds clarity to instructions. Now the instructions can be relayed verbally or visually.

**Claims 3 and 12:** Wong and Burdea disclose a method and system as in Claim 2 and 11 and Burdea further discloses a user input device that comprises a motion detector configured with a plurality of pressure and weight sensors (Column 4, Lines 4-42).

**Claims 5 and 14:** Wong discloses generating specific ergonomic data in response to compiling ergonomic data based on physical input provided by user to electronic portal in order to generate ergonomic tool data to user based on physical input as in Claim 4 and 13 above but does not explicitly discloses specific ergonomic data comprising a plurality of output variables representative of weight, twist, grasp, pull, push and motor skills of user. However Burdea discloses a virtual reality interactive system that utilizes an input to collect ergonomic data (Column 4, Lines 15-30). Therefore it would have been obvious to one having ordinary skills in the time of the art to add the interactive graphic to measure the outputs in Wong as taught by Burdea. One would have been motivated to measure the outputs to collected detailed data to provide efficient and accurate recommendations.

**Claim 20:** Wong discloses a system comprising:

an electronic portal that collects and provides ergonomic tool data to a user of said portal, a compilation module for compiling ergonomic data based on physical input provided by said user to said electronic portal through a user input device in order to generate ergonomic tool data to said user based on said physical input, an analysis module for analyzing and comparing said specific ergonomic data to data maintained within a database to thereby provide particular tool data matching said specific ergonomic data associated with said user; and a generating module for automatically generating a plurality of risk factors for said user based on a cross reference analysis ergonomic data compiled in response to physical input provided by said user to said electronic portal via said user input device in order to generate ergonomic tool data based on said physical input. (Abstract; Column 4, Lines 60-Column 5, Line 7; Column 6, Lines 57-Column 7, Line 45; Column 11, Lines 13-31). Wong allows user physically input information this information is collected and compared and product “tool” recommendations are made available to user based on input.

However Wong does not explicitly disclose a known physical profile of said user but it would have been an obvious technique of improving the system and would have been within the ordinary capabilities of one skilled in the art to include physical profile alongside the physical task profile of Wong (Column 9, Lines 39-50) because the

physical profile would be inter-related with the effect of the task performed by the specific user.

Nor does Wong explicitly disclose wherein said electronic portal is displayed graphically in three spatial dimension a display screen for said user; a user input device, wherein said user is prompted via said display screen to interact with an interactive graphic displayed in three spatial dimensions utilizing said user input device; However Burdea discloses a virtual reality interactive system that utilizes an input to collect ergonomic data (Abstract; Column 4, Lines 4-42).Therefore it would have been obvious to one having ordinary skills in the time of the art to add the interactive graphic to Wong as taught by Burdea. One would have been motivated to add the interactive graphic because it adds clarity to instructions. Now the instructions can be relayed verbally or visually.

Burdea also discloses wherein said specific ergonomic data comprises a plurality of output variables representative of weight, twist, grasp, pull, push and motor skills of said user (Column 4, Lines 15-30).Therefore it would have been obvious to one having ordinary skills in the time of the art to add the interactive graphic to measure the outputs in Wong as taught by Burdea. One would have been motivated to measure the outputs to collected detailed data to provide efficient and accurate recommendations.

### **Response to Arguments**

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection as necessitated by the amendments.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherrod Keaton whose telephone number is 571) 270-1697. The examiner can normally be reached on Mon. thru Fri. and alternating Fri. off (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3800.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from

a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SLK

3-25-08

/David A Wiley/

Supervisory Patent Examiner, Art Unit 2174